

## IN MEDICINE AND SURGERY

**STEVEN J. LOCNIKAR, D.O**

For the practice of osteopathic medicine in the  
State of Arizona

) FINDINGS OF FACT,  
 ) CONCLUSIONS OF LAW  
 ) AND ORDER FOR REVOCATION

The Respondent appeared before the Board and was represented by Dwane M. Cates, Attorney at Law. The State was represented by Assistant Attorney General Blair Driggs. Christine Cassetta of the Solicitor General's section of the Attorney General's Office provided legal advice to the Board.

## FINDINGS OF FACT

2. Respondent Steven J. Locnikar, DO is the holder of License No. 2669 for the practice of osteopathic medicine in the State of Arizona.

- 1 -

1           4.       Prior to the occurrence of the events that gave rise to the instant proceeding, Dr.  
2 Locnikar had been the subject of the following Board actions:

3           a.       On May 17, 1996 Dr. Locnikar entered into a Stipulated Consent Order  
4 with the Board placing Dr. Locnikar on probation for a five year period and requiring Dr.  
5 Locnikar obtain psychiatric or psychological treatment based on Dr. Locnikar's violation  
6 of A.R.S. § 32-1854(22) (using controlled substances or prescription-only drugs unless  
7 they are provided by a medical practitioner as part of a lawful course of treatment). The  
8 Consent Order required, among other things, that during the term of his probation Dr.  
9 Locnikar was to abstain completely from the consumption of alcoholic beverages and the  
10 use of illicit drugs, and that Dr. Locnikar was not to take any controlled substances  
11 without a prescription from his treating physician.

12           b.       On October 1, 1996 Dr. Locnikar entered into a second Stipulated Consent  
13 Order with the Board after the Board received information giving it reason to believe that  
14 Dr. Locnikar had not complied with the May 1996 Consent Order. Pursuant to that  
15 second Stipulated Consent Order, Dr. Locnikar agreed to attend ninety one hour self-help  
16 meetings for ninety days through organizations such as alcoholics anonymous and  
17 narcotics anonymous.

18           c.       On February 6, 1997 Dr. Locnikar entered into a Consent Order with the  
19 Board for the summary suspension of his license. According to the terms of that Order,  
20 Dr. Locnikar had violated the terms of his probation by testing positive for the use of  
21 alcohol, marijuana and cocaine. Furthermore, Dr. Locnikar had provided treatment to  
22 patients while under the influence of alcohol, an act of unprofessional conduct, and had  
23 failed to cooperate with the Board in its efforts to enforce the terms of Dr. Locnikar's  
24 probation.

25           d.       On February 13, 1997 the Board issued an Order terminating Dr.

1 Locnikar's summary suspension, and placing Dr. Locnikar's license on formal  
2 suspension subject to the successful completion by Dr. Locnikar of an inpatient  
3 rehabilitation program.<sup>1</sup> Paragraph 9 of the Board's Order provides:

4 [Dr. Locnikar] may have his license to practice as an osteopathic  
5 physician, subjected to additional disciplinary action, including but not  
6 limited to suspension or revocation of Board license in the future if:

- 7 A. The Board finds that [Dr. Locnikar] does not have the requisite  
8 mental, physical and emotional fitness to safely continue the  
9 practice of medicine; or,  
10 B. There are new grounds for finding unprofessional conduct  
11 concerning [Dr. Locnikar]; or,  
12 C. [Dr. Locnikar] fails to comply fully with the terms and conditions  
13 of this Order.

14 5. On May 25, 2005 the Board issued its Findings of Fact, Conclusions of Law and  
15 Order in Case No. 3455. In that Order, the Board found as follows:

16 a. Dr. Locnikar had relapsed between June 2004 and January 2005, and had  
17 during that period consumed alcohol, used cocaine and taken Versed (a benzodiazepine syrup).

18 b. In consequence of his relapse, Dr. Locnikar had agreed, among other things, to  
19 not practice osteopathic medicine and to submit to three drug screens each week.

20 c. In April 2005, several of Dr. Locnikar's drug screens were positive for  
21 benzodiazepines and testosterone.

22 6. The Board concluded that Dr. Locnikar had engaged in unprofessional conduct in  
23 violation of A.R.S. § 32-1854(3), (38) and (39), and suspended Dr. Locnikar from the practice of  
24 osteopathic medicine until he complied with the terms and conditions set forth in the Order.  
25 Among other things, the Board required that Dr. Locnikar successfully complete an inpatient  
evaluation for possible alcohol or chemical dependency, develop a plan for aftercare treatment  
and monitoring, and abstain completely from the consumption of alcoholic beverages and/or  
illicit drugs, and to not take any controlled substances without a prescription from his treating

<sup>1</sup> There is no evidence in the record as to whether Dr. Locnikar completed the required program; the Administrative Law Judge infers, from the fact that Dr. Locnikar continued to practice medicine, that he did.

1 physician.

2 7. As was the case with its February 13, 1997 Order the Board's May 25, 2005  
3 Order included a provision that Dr. Locnikar's license to practice as an osteopathic physician  
4 could be restricted, suspended or revoked in the future if the Board found that Dr. Locnikar did  
5 not have the requisite mental, physical and emotional fitness to safely continue the practice of  
6 medicine, or if Dr. Locnikar engaged in unprofessional conduct, or if Dr. Locnikar failed to  
7 comply fully with the terms and conditions of the Order. The Board's Order further required that  
8 "[i]n the event [Dr. Locnikar] moves and ceases to practice medicine in Arizona, he shall give  
9 written notice to the Board of his new residence address within twenty (20) days of moving. . .".

10 8. On July 27, 2005 the Board received information from the United States Drug  
11 Enforcement Agency that Dr. Locnikar had been involved in an incident involving the Paradise  
12 Valley Police Department. The evidence presented at hearing regarding that incident  
13 demonstrated the following:

14 a. On July 23, 2005 Paradise Valley Police Officers Sanborn and Chavira  
15 responded to the Renaissance Cottonwood Inn in response to a complaint. According to  
16 Officer Sanborn, a security officer at the Inn had seen a woman in a window of one of the  
17 rooms mouthing the words, 'call the police'.

18 b. Upon responding to the room in question, Officers Sanborn and Chavira  
19 discovered Dr. Locnikar and a woman named Carla Gonzalez. Dr. Locnikar had met Ms.  
20 Gonzalez the previous evening at Bourbon Street Circus, where Ms. Gonzalez worked as  
21 an exotic dancer.

22 c. Officer Sanborn observed damage to the room, but ascertained, following  
23 interviews with Dr. Locnikar and Ms. Gonzalez, that the majority of the damage had been  
24 caused in the course of consensual sexual conduct between Dr. Locnikar and Ms.  
25 Gonzalez. Officer Sanborn further ascertained that the security officer's observation of

1 Ms. Gonzalez in the window had apparently not been an expression of fear by Ms.  
2 Gonzalez of Dr. Locnikar, but was instead related to Ms. Gonzalez having viewed  
3 something in the hotel vent system that had frightened her.

4 d. Through his interview with Dr. Locnikar, Officer Sanborn learned that Dr.  
5 Locnikar and Ms. Gonzalez had been drinking throughout the evening.

6 e. Officer Sanborn asked Dr. Locnikar if any drugs were present in the room.  
7 Dr. Locnikar denied that any drugs were present. Ms. Gonzalez, however, informed  
8 Officer Chavira that Dr. Locnikar had injected her with a drug to help her relax. That  
9 drug turned out to be human growth hormone.

10 f. Upon being confronted with Ms. Gonzalez's statement, Dr. Locnikar  
11 identified himself as a physician and acknowledged that he had injected Ms. Gonzalez  
12 with the drug. Officer Sanborn asked Dr. Locnikar if the drug required a prescription; Dr.  
13 Locnikar answered that it did. Officer Sanborn asked Dr. Locnikar if Ms. Gonzalez had a  
14 prescription for the drug; Dr. Locnikar answered that she did not, but that he did. Officer  
15 Sanborn asked Dr. Locnikar if he had written the prescription for himself; Dr. Locnikar  
16 answered that he had not. Dr. Locnikar acknowledged, however, that he could easily have  
17 obtained such a prescription from one of his friends.

18 g. According to Officer Sanborn, Dr. Locnikar disclosed during the interview  
19 that his medical license was under suspension.

20 9. On October 12, 2005 following its review of the foregoing incident, the Board  
21 issued a Complaint and Notice of Hearing alleging that Dr. Locnikar had violated A.R.S. § 32-  
22 1854(3), (5), (6), (22), (25), (35), (38) and (45).

23 10. The Board's Notice of Hearing advised Dr. Locnikar that the hearing in his matter  
24 would convene on November 17, 2005 at the Office of Administrative Hearings in Phoenix,  
25 Arizona. The Board sent a copy of the Notice of Hearing to Dr. Locnikar at Dr. Locnikar's

1 address of record by certified mail, return receipt requested.

2 11. The United States Postal Service returned the Board's Notice of Hearing as  
3 undeliverable and as unable to be forwarded. According to the Board, Dr. Locnikar did not notify  
4 the Board of any change in his address, as he was required to do under the terms of the Board's  
5 May 25, 2005 Order.

6 12. The Board provided proper notice to Dr. Locnikar of the hearing in this matter. In  
7 view of the Board's proper provision of notice, that no valid justification exists for Dr.  
8 Locnikar's failure to appear.

9 13. Because Dr. Locnikar failed to appear for hearing, he offered no evidence to  
10 controvert or mitigate the evidence presented by the Board.

11 14. At the conclusion of the hearing, the Board requested, based upon all of the  
12 evidence and the totality of the circumstances, including the previous Orders entered against Dr.  
13 Locnikar's license, that Dr. Locnikar's license to practice osteopathic medicine in the State of  
14 Arizona be revoked.

15 15. The board finds that the public's health, safety and welfare is threatened and as  
16 such mandates the immediate effectiveness of the following Order.

17 **CONCLUSIONS OF LAW**

18 1. In this proceeding the Board bears the burden to prove, by a preponderance of the  
19 evidence, that Dr. Locnikar engaged in unprofessional conduct as defined in A.R.S. § 32-  
20 1854(3), (5), (6), (22), (25), (35), (38) and/or (45), and that he is subject to disciplinary action  
21 pursuant to A.R.S. § 32-1855(l). See A.A.C. R2-19-119.

22 2. A preponderance of the evidence is "such proof as convinces the trier of fact that  
23 the contention is more probably true than not." Morris K. Udall, ARIZONA Law OF  
24 EVIDENCE § 5(1960).

25 3. A.R.S. § 32-1854(3) defines unprofessional conduct as "[p]racticing medicine

1 while under the influence of alcohol, narcotic or hypnotic drugs or any substance that impairs or  
2 may impair the licensee's ability to safely and skillfully practice medicine."

3 4. A.R.S. § 32-1800(24) defines "practice of medicine" or "practice of osteopathic  
4 medicine" as including all of the following:

5 (a) To examine, diagnose, treat, prescribe for, palliate, prevent or correct  
6 human diseases, injuries, ailments, infirmities and deformities, physical or  
7 mental conditions, real or imaginary, by the use of drugs, surgery,  
8 manipulation, electricity or any physical, mechanical or other means as  
9 provided by this chapter.

10 (b) Suggesting, recommending, prescribing or administering any form of  
11 treatment, operation or healing for the intended palliation, relief or cure of  
12 any physical or mental disease, ailment, injury, condition or defect.

13 (c) The practice of osteopathic medicine alone or the practice of  
14 osteopathic surgery or osteopathic manipulative therapy, or any  
15 combination of either practice.

16 6. Dr. Locnikar engaged in the practice of medicine as defined by A.R.S. § 32-  
17 1800(24) (b) when he injected Ms. Gonzalez with human growth hormone on July 23, 2005. Dr.  
18 Locnikar was under the influence of alcohol when he did so; therefore, Dr. Locnikar's conduct  
19 constitutes a violation of A.R.S. § 32-1854(3).

20 7. A.R.S. § 32-1854(5) defines unprofessional conduct as "[p]rescribing, dispensing  
21 or administering controlled substances or prescription only drugs for other than accepted  
22 therapeutic purposes."

23 8. A.R.S. § 32-1854(6) defines unprofessional conduct as "[engaging in the practice  
24 of medicine in a manner that harms or may harm a patient or that the board determines falls  
25 below the community standard."

9. A.R.S. § 32-1854(25) defines unprofessional conduct as "[v]iolating a formal  
order, probation or a stipulation issued by the board under this chapter."

16. Dr. Locnikar violated A.R.S. § 32-1854(25) by engaging in the practice of  
medicine while his license was under suspension, by consuming alcohol in violation of the

1 Board's May 25, 2005 Order, and by failing to provide the Board with notice of his change of  
2 address.

3 17. A.R.S. § 32-1854(35) defines unprofessional conduct as '[v]iolating a federal law,  
4 a state law or a rule applicable to the practice of medicine."

5 18. Dr. Locnikar violated A.R.S § 32-1854(35) by virtue of his violations of A.R.S. §  
6 32-1854 as found herein.<sup>2</sup>

7 19. A.R.S. § 32-855(l) provides:

8 A physician who, after an investigative or administrative hearing, is found  
9 to be guilty of unprofessional conduct or is found to be mentally or  
10 physically unable safely to engage in the practice of osteopathic medicine  
11 is subject to any combination of censure, probation, suspension of license,  
12 revocation of license, an order to return patient fees, imposition of hearing  
13 costs, imposition of a civil penalty of not to exceed five hundred dollars  
14 for each violation for such period of time, or permanently, and under  
conditions the board deems appropriate for the protection of the public  
health and safety and just in the circumstances. The board may charge the  
costs of an investigative or administrative hearing to the licensee if  
pursuant to that hearing the board determines that the licensee violated this  
chapter or board rules.

15 20. Based on the foregoing statute, Dr. Locnikar is subject to disciplinary action  
16 because he is found to have engaged in unprofessional conduct.

17 21. Upon consideration of all of the evidence, disciplinary action is warranted  
18 (revocation of Dr. Locnikar's license) and is commensurate with the serious nature of Dr.  
19 Locnikar's violations, coupled with Dr. Locnikar's history of past violations and demonstrated  
20 inability to comply with Board Orders.

21 **ORDER**

22 Pursuant to the authority vested in the Board,  
23  
24  
25

<sup>2</sup> Dr. Locnikar's injection of Ms. Gonzalez may have constituted a violation of state and/or federal law pertaining to the dispensing of prescription-only drugs; however, the board did not present any legal authority at the hearing to support such a conclusion.



1           1.     IT IS HEREBY ORDERED that Dr. Steven J. Locnikar's license for the practice  
2 of osteopathic medicine in the State of Arizona (No. 2669) is revoked. Revocation of license is  
3 effective immediately.

4           2.     IT IS FURTHER ORDERED that Dr. Steven J. Locnikar shall immediately return  
5 his wallet card and wall license.



ISSUED THIS 25TH DAY OF JANUARY 2006.  
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS

By: \_\_\_\_\_  
Jack Confer, Executive Director

**NOTICE OF RIGHT TO APPEAL TO SUPERIOR COURT**

Respondent to hereby notified that this is a final administrative decision of the Board and  
that the Respondent has exhausted his administrative remedies. Respondent is advised that an  
appeal to Superior Court in Maricopa County may be taken from this decision pursuant to Title  
12, Chapter 7, Article 6.

Original "Findings of Fact, Conclusions  
of Law and Order for Revocation"  
filed this 25th day of January, 2006 with the:

Arizona Board of Osteopathic Examiners  
In Medicine and Surgery  
9535 East Doubletree Ranch Road  
Scottsdale AZ 85258-5539

Copy of the foregoing "Findings of Fact,  
Conclusions of Law and Order for Revocation"  
sent by certified mail, return receipt requested  
this 25th day of January, 2006 to:

Steven J. Locnikar, D.O.  
Hazelden Springbrook  
1901 Esther Street  
Newburg OR 97132

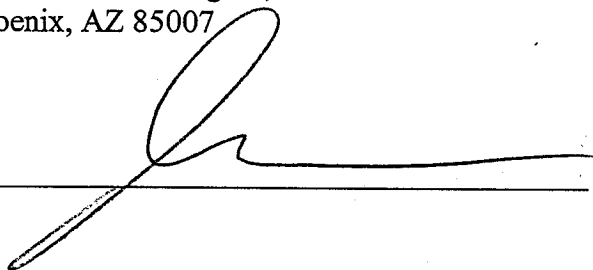
1 Copies of the foregoing "Findings of Fact,  
2 Conclusions of Law and Order for Decree  
3 of Censure" sent via regular mail this 9th  
day of January, 2006 to:

4 Blair Driggs, AAG  
5 Office of the Attorney General CIV/LES  
6 1275 West Washington  
Phoenix AZ 85007

7 Dwane M. Cates, Esquire  
8 Cates, Hanson, Sargeant & Rakestraw, P.L.C.  
1747 East Morten, Suite 205  
Phoenix, AZ 85020

9 Cliff J. Vanell, Director  
10 Office of Administrative Hearings  
11 1400 West Washington, Suite 101  
Phoenix, AZ 85007

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



---